

TRANSCRIPT

STANDING COMMITTEE ON LEGAL AND SOCIAL ISSUES

Inquiry into the retirement housing sector

Melbourne — 16 November 2016

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Witnesses

Mr Robert Putamorsi, General Manager, Retirement Communities, and

Mr Derek McMillan, Chief Executive Officer, Independent and Assisted Living, Australian Unity.

The CHAIR — I would now like to welcome our next witnesses from Australian Unity, Mr Robert Putamorsi, the general manager of retirement communities, and Mr Derek McMillan, the chief executive officer of independent and assisted living. Thank you, gentlemen, for being with us today. Thank you very much for your submission to the inquiry, no. 702, which the members of the committee have read and digested. I would also like to thank you for your hospitality in allowing us to have a public hearing and meet with the residents at your facility in Mornington. Thank you very much for that. It is greatly appreciated. It is always good for committees to be able to see things outside this building in reality, so thank you for that opportunity.

Before I invite you to make some remarks, I will just caution that all evidence taken at this hearing is protected by parliamentary privilege. Therefore you are protected against any action for what you say here today, but if you go outside and repeat the same things, those comments may not be protected by this privilege. We have allowed about 45 minutes for our time today, so I would invite you to make some opening remarks and thereafter the committee will have questions.

Mr McMILLAN — Thank you very much to the committee for the opportunity to present. I think it is a timely inquiry, given the ageing of the population of course and, in association with that, the diminishing family supports that older people are experiencing, whether that is because of their having children later in life or because their families are more dispersed and so forth. So I think it is a very timely inquiry.

Just a little background on Australian Unity: Australian Unity is a mutual organisation. It is 176 years old. We design our products and services around what we consider to be social infrastructure. By that we mean both physical and financial products and services to help people live a better quality of life. For those who are not really familiar with organisational structures, a mutual organisation is a for-profit or a commercial enterprise. We pay tax but we do not have shareholders; we have members. So in essence we serve our members. I think what that does give us is an organisational mindset around stewardship, and I think that stewardship concept aligns very much with the retirement sector, where the tenure our residents are looking for is organisations that are not going to flip their assets, if you like, but are committed to the sector over the longer term. By way of example, I would say one of our villages here in Victoria, Walmsley Village, which is in Kilsyth, was developed by the organisation in the late 1970s and is still continuing today to provide accommodation.

Robert is responsible for the retirement village portfolio. My responsibilities include not just the retirement villages but also residential aged care, home care and disability services as well. So that is probably the perspective that we will bring today. Both of us have been involved in the sector for 10 years.

One other, I suppose, context-setting comment I would like to make is that aged care is needs based. It is very much a needs-based decision that people are making, whereas people entering retirement living are largely making a positive choice to move out of their suburban home and move into some other form of accommodation. That means that they are not just choosing between retirement villages but in fact looking at other forms of accommodation as well, whether that be strata apartments or whether that be a villa unit or just a smaller house. Very much, we see that retirement accommodation has to compete in the open market for our clients.

Australian Unity has quite a diverse range of retirement accommodation. We operate in New South Wales and Victoria and provide services to about 3000 residents. In size, our retirement villages range from 25 units to one village that has over 400. In terms of location, we are located in regional towns, on the urban fringe and also in the inner city. In price, we have units ranging from say \$100 000 or even less right through to \$1.5 million penthouses. So we have a broad selection, and I think the one thing that is in common, though, is that the residents of the retirement villages report a higher quality of life — if you like, their self-reported wellbeing — than people in the suburban community do. Even that is on an age basis, and we noted that in our submission.

I think that there are three reasons for that higher quality of life. The first is that retirement villages offer a higher physical security and peace of mind, so that very much relates to either on-site maintenance or potentially even health services and so forth. So particularly, say, for older widows who may not know how to get a plumber to replace their hot-water system at home — they may not have ever actually had to do that type of activity — that is something that is taken control of by the community itself, as you are probably familiar with. So there is physical security and peace of mind.

Retirement communities do help to defeat social isolation. For many people it is the attractiveness of being able to participate in the community activities as much or as little as they wish. To make new friends in addition to

maintaining their friends in the existing community is a positive. But the third reason, I think, why retirement villages actually work is because the business model of retirement villages actually matches the tax and pension system that Australia has adopted. By that I mean that, as we all know, the family home is a protected asset from a capital gains tax perspective, so therefore it is a form of saving, and for many older people who have not had the benefit of superannuation, the bulk of their savings actually is in the family home. If they wish to supplement their quality of life, then they can sell their home, downsize and take that cash out to supplement their living.

If they moved to a normal home, if they just sold a house and bought another house, they would have to pay stamp duty, but also they are paying on-market price. As a general rule retirement villages sell their units at a lower price than the median house price of the suburb, and in that the developers and the operators make a choice. We say, 'You sell at a lower price and you pay for some community infrastructure, but in return you back-end some of those earnings into those deferred fees at the backend'. That model, I think, has sustained itself over the last 30 or 40 years because it does fit with people's savings and the tax and pension system. So people can cash out and get a little bit of extra money, and then instead of paying the full price for the unit they are paying for that partly up-front and partly at the backend.

So with that I just touch on our five recommendations to finish our opening comments, which are broadly in three themes. The first thing we are recommending is a seniors housing minister or some form of additional oversight within the government. That could be something similar to the recently appointed Parliamentary Secretary for Medical Research — someone who is responsible for removing the barriers to allow seniors to have more choices of where they want to live.

An example might be, for example, at Fishermans Bend. Fishermans Bend is probably the most significant urban renewal in our living memory, and yet there are no specified locations for seniors in that. There are schools, parks and office and residential carved out, but there is no place for seniors. By the time Fishermans Bend is finished, there will be more people over 65 than there will be kids under 15, and yet there is no thought given to: could seniors actually add to the mix of that community? So a seniors housing minister of some form would actually support that.

I think, secondly, we recognise that some seniors do not feel that they have the power in negotiating with operators, and we would support some form of advocacy type of support for seniors. We have recommended a seniors advocate, as adopted in South Australia. We do recognise that for many people it could be quite distressing for them to have to negotiate with an operator if they feel anxious about that, and to have some advocacy for support would be a positive thing.

The third theme for us is that there is double payment to services that is happening in retirement communities, and that double payment occurs because residents pay for many of their services — whether they be waste or roads or what have you — through their maintenance charges, but then they also pay council rates as well. There is no offset in the council rates, so in fact they are paying double, when in fact most of our residents are either full or part pensioners. If anything, they should be getting a rebate rather than having to pay double. So they are the three core themes for our submission.

The CHAIR — Thank you very much, Mr McMillan. I might just start by asking about that last point. One of the issues for the committee about a differential rate is the proposition of the, in effect, user-pays methodology, which the MAV have contended against. Leaving that issue aside, another issue for the committee is: what sort of differential rate would be appropriate? Given the different levels of services available in different villages, depending on the cost and the nature of the services that are provided, have you done any calculations as to what that differential rate should be, given the services you provide that may double up on council rates?

Mr McMILLAN — We certainly support the property council's work that says in the order of 25 per cent.

Mr PUTAMORSI — Twenty-five per cent — we contributed to that data, so that range. You are right, there are different levels of services in different villages, but I think as an average or general rule, that 25 per cent we see as about the right, appropriate number.

Mr McMILLAN — Sorry, if I could just add, we do not necessarily see that as a discount. Rather, when you look at most retirement villages and the density — the number of people who live per hectare — and

compare that to the normal suburb, there is generally about a 25 per cent higher density anyway. So when you look at it, it pretty well matches both ways — both on the double-up of the services but also on the per hectare rate contribution as well.

The CHAIR — Yes. Population density does not always translate to less expensive services.

Mr McMILLAN — Yes, correct.

The CHAIR — It can sometimes, but it does not always translate. Can I just ask: given you have a different structure as a mutual organisation — we have heard from some other larger operators that it can be difficult to access new sites, and we have heard about some of the challenges in meeting future growth — is that an issue that you confront or, because of your financial structure and member base, being a member-based organisation, you can take a longer perspective, perhaps, than a listed company when it comes to generating returns? I am just interested in your perspective on that.

Mr McMILLAN — It is certainly true that we can take a longer term view, and it is also true that we try and develop retirement communities where people want to live. Therefore we generally are competing with residential developers. What we do find is that we often get outbid because a residential developer can charge a higher price because we charge a lower entry fee.

The question is: we still need to get a guardianship rate of return on our members' funds. Let us say, for example, that guardianship might be 8 to 10 per cent, whereas a residential developer may be looking at, say, a 20 per cent return on that development. So those two somewhat net out the price that we can pay. By that I mean that if we are looking for a lower return, we can pay a bit more. But what we generally find is when the market is hot, if you like, then we certainly get outbid.

The CHAIR — Something we have heard consistently is about the supply challenges going forward. Do you have any suggestion about how that could be addressed so that more supply is coming onto the market, given the ageing of the population?

Mr McMILLAN — Robert might have some views on this as well, but my view is that the state government owns a lot of land, councils own a lot of land and they can make choices about what the make-up of the community can be. For example, a disused school site is a good example; if the school is no longer required, there is a fair chance the school is no longer required because the population is more heavily weighted towards older people. Therefore it would make sense if whoever owned that site would actually say there would be preferential zoning, if you like, for retirement communities over other uses for that.

That is the type of thing I think that we should be looking for. We are not looking for significant free kicks. What we are saying is that in that situation it makes more sense from a community perspective to support elder people, particularly again, say, in a new community such as Fishermans Bend, where you would say that it makes most sense to have older people living closer to shops and closer to public transport, where they are less likely to be able to drive, and therefore have some preferential zoning — not necessarily exclusive zoning but preferential zoning for retirement communities.

Ms SPRINGLE — I am interested to hear your thoughts about the idea of a retirement housing minister or a seniors housing minister and whether that is actually linked to the reason why you would prefer an advocate over an ombudsman. For example, if there was not to be a minister, would an ombudsman be something you would support or are they not linked at all?

Mr McMILLAN — We think by the fact that there will be more over 65s than children maybe by 2025 in Victoria and the fact that Victoria is quite a diverse population — ethnically quite diverse — that actually more thought needs to be given to how we want our communities to be made up and more support for seniors. That is not just necessarily housing but it also could include the way that our streets or traffic lights are set up and all of this to support seniors more. We do not have enough focus on that part of the population within the Victorian government. This could be one way to support not just more appropriate accommodation but, more broadly, support for seniors.

South Australia has a higher proportion of people living in retirement communities than other states. That seems to be a model that they have developed, and from what we can understand, that seems to work quite well. It is

about supporting people with a voice. It does depend on the scope of an ombudsman's role, but often the ombudsman has powers to conduct investigations and so forth as well, which an advocate generally would not do. We think that the sector is reasonably well balanced between the needs of the operator to attract additional investment and the needs of the residents. But where we see the gap is in fact around the voice that residents have and supporting them with a voice. So it is not necessarily linked.

Ms SPRINGLE — Okay. I was just trying to work out whether perhaps your perspective is that if there was a minister, it would be overseen and guided in a more structured manner —

Mr McMILLAN — A structured way, yes.

Ms SPRINGLE — and therefore there may not be as many disputes to address.

Mr PUTAMORSI — I think that was one. I think it is more about getting the balance between consumer protection but also making sure that the industry grew appropriately. So I think we saw the minister as a balance to both of those.

Ms SPRINGLE — Yes. Because ultimately we have had a lot of submissions and seen people in hearings who are consumers who are very dissatisfied with the way that disputes are handled now and, I guess, would contradict some of what we have also heard from operators in that there is no problem or very little problem or the problems are handled well currently. So I suppose I am trying to unpack that a little bit.

Mr PUTAMORSI — Yes. I think that is why our view is that an advocate gives them, I guess, an independent voice if they feel, as Derek mentioned before, they cannot go to the operator. We felt the advocate was sufficient, because I think it is maybe being able to go outside their manager to someone who is able to deal with their issue. We see in the submissions that it is around having someone else to refer to and help get resolutions. That to me seems to be what is coming out of the questions I have read to date. That was our view.

Mr SOMYUREK — The ministerial model: is that replicated in any other state?

Mr PUTAMORSI — No, it is not.

Mr SOMYUREK — Or any other jurisdiction?

Mr PUTAMORSI — No. I guess it is more linked to what is happening in the aged-care industry, where there is a whole focus on how you appropriately house older Australians who are more vulnerable than our clients specifically. But no, not in Australia.

Mr SOMYUREK — You seem to be saying that more emphasis needs to be placed on policy and resources rather than at an investigatory level. Is that right?

Mr PUTAMORSI — Yes, I think it is getting the balance right.

Mr McMILLAN — That is correct. That sums up the proposition.

Ms SYMES — Just picking up on a comment you made, I think, that there is a higher percentage of retirement living in South Australia than in other states?

Mr McMILLAN — Yes.

Ms SYMES — What do you put that down to?

Mr McMILLAN — I do not know. That is hard. It could be because there is a slightly higher proportion of Australian English-born people in South Australia, where there is that sort of community coming together and supporting each other, very much like the former friendly societies and so forth 150 years ago. That might be part of it.

Part of it could be that the government has always in my view been supportive of this sort of collaboration. So there has always been a collaborative approach between residents and the operators and the government. We find that in party with Consumer Affairs Victoria. They are generally very collaborative. But it seems to work a little bit better there.

Mr MULINO — I just have a question around dispute resolution. Ms Springle has already raised the fact that we have received quite a few submissions from people who are dissatisfied. I just wonder if you could provide details around the number and breakdown of the types of complaints that have been raised in the villages you run.

Mr PUTAMORSI — Yes, certainly. There are a number of levels of complaints. We do have a dispute resolution process. There is a process for our residents to go beyond their site management to regional state management and then to head office. So there is escalation and a clear process for residents. From a head office perspective certainly we would have had in 12 months around 25 or 26 that would have been escalated to head office. Generally they are the higher level ones. When we say complaints, we record at site level everything. So someone might come in and not be happy with how the garden is maintained. We record that. So there is a variety of levels. In a month there would be 15 to 18 of those. The majority of those are generally around site maintenance and site stuff. That is typically where we get them. In communal living it is very difficult, because one person likes the lawns this way and another does not, but most of our inquiries that come up would be around maintenance. Our general queries would be around maintenance and how the village is maintained.

Mr McMILLAN — But I think going back to this concept of the advocate I do feel that when you talk to people one on one many of the residents feel that there is a power mismatch between the operator and themselves and they probably need help to articulate their argument, to be able to put that in the context of the contract they have with the operator more so than in fact argue the dispute, if that makes sense.

Mr MULINO — And so the advocate model that you are looking at would be able to intervene at that more informal, internal stage as well as when it gets to a more formal stage?

Mr McMILLAN — Escalate it, yes.

Mr PUTAMORSI — Because I think we see that maybe some of the frustration is the timeliness of resolution as well, and I think that is where the advocate may help.

The CHAIR — Can I ask just to follow on: the complaints that make it to head office, perhaps the more serious complaints, are there particular characteristics or trends in those complaints that you can identify?

Mr PUTAMORSI — No, there are not a lot of trends. Some of them are resident-to-resident issues which the site has not been able to resolve, so I think sometimes out of frustration they come up. There are a few that come at the exit point. Those would generally come from family members and the estate, who did not sign up at the front end. They are the ones that would come into head office, because they might be a little bit more complicated for the family at that point. We do not get a lot of those because with our disclosure, aside from what is provided under the regulations of facts sheets and disclosure statements — we have one-page financial sheets as well, which are handed out early; it is very important to get that up-front — most of our residents with a — —

The CHAIR — Can I just interrupt you? You said they are not the mandatory disclosure statements.

Mr PUTAMORSI — So we have got mandatory, but we have always had one-page fact sheets ourselves to explain that.

The CHAIR — Okay.

Mr PUTAMORSI — The other thing to remember is that the average length of stay for our residents is somewhere around 10 to 12 years, so a deal that was done 10 years ago which comes to fruition 10 or 12 years later — sometimes, as I said, family members might not have been involved at the front end. I would not call those disputes. They are generally resolved at our head office through discussion and negotiation at that point.

Mr McMILLAN — I think, if I might add to that, about the fact sheet disclosure document, I have been an advocate within the industry for promoting more simple disclosure rather than trying to modify the contracts so much, because the contracts are difficult as you have already heard — 50 to 80 pages long. If people can understand in simple terms what the core elements are from the disclosure statements and the fact sheet, then that is a lot more beneficial. I think they have only really come to fruition here in Victoria since 2014, so many of the concerns that we may be receiving from family members relate to contracts that were written before this century and therefore they did not have necessarily that same clarity of understanding that residents have now.

Ms SPRINGLE — You used the term ‘buying a unit’. We have heard already this morning that it is not quite buying a unit, really, is it? It is actually more like a lease.

Mr McMILLAN — It depends on the contract term, whether it is a lease or a strata unit. If it is a strata, they would be buying. If it is a loan-lease — —

Ms SPRINGLE — Do you think that people actually understand that, mostly, when they are entering into these contracts?

Mr PUTAMORSI — We think we make that very clear. Remember it is a 99-year lease, which gives them security of tenure, one. Two, the other thing that we are quite big on is that we recommend and push them to receive independent legal advice to go through those agreements. We think that is very important.

Ms SPRINGLE — Do most people do that in your experience?

Mr PUTAMORSI — We have had a look and we would estimate 90 to 95 per cent of our residents would do that, and that is because we do quite strongly encourage it.

Ms SPRINGLE — We have also heard other evidence to suggest that because a lot of solicitors and lawyers are not really experts in this area and some of the contracts are enormously complicated even legal advice does not always actually hit the mark.

Mr PUTAMORSI — Yes. We have developed a preferred panel of solicitors, both in Victoria and New South Wales. There are firms around which either specialise in this or have been across them, especially at some sites where they do a lot of it. So we will come up with a list. They might have their own or we give them a list and say, ‘Look, these are lawyers or solicitors that understand the agreements’. So we try and direct them to those people to help with that clarity because it helps us in the long run through the whole process. They understand up-front.

The other thing we do in terms of our training for sales staff — because it is not just a real estate sale; it is about taking people through those agreements, so our sales staff will also explain that through the sales process.

Ms SPRINGLE — How long would an average contract that you would be entering into with a client be?

Mr PUTAMORSI — The number of pages, you mean?

Ms SPRINGLE — Yes.

Mr PUTAMORSI — Look, I think in the formal part there are probably about 35 to 40 pages of clauses, but on top of that where they do get big in volume is where there are attachments. For instance, we do condition reports on units before the resident moves in so it is quite clear as to the condition of the unit when they move in. The village rules get attached and additional service fees. They are ancillary documents which end up making them quite big, but in terms of the clauses, they can get to about 40 pages by the time you get to mandatory and additional clauses.

The CHAIR — Can I just ask, Mr McMillan, about the point you made about the deferred management payment model, that you pay less on entry and you pay some more at the exit. Do you track that price differential between the market price in the suburbs where you are located for normal homes or normal purchase of property versus that entry price?

Mr McMILLAN — Particularly when we are starting a new community, that would be very much informing the pricepoints at which we launch those products to the market. Subsequent to that, upon turnover, then you very much have dual responsibilities. One is to the outgoing residents to ensure that they get the best possible price, and secondly, the market forces of supply and demand. Hopefully, we create a community that is in high demand because of the services and what have you, and then you find that that can push the price up higher than it originally started at. But generally it is the new communities where we focus most of all on that price — —

Mr PUTAMORSI — We do monitor that, though, just to make sure that the stock is in line and not getting out of balance with the general residential market.

The CHAIR — Take a new community that you are building, is there a normal sort of figure you — —

Mr McMILLAN — The rule of thumb would be, say, 80 per cent of the median house price.

Mr PUTAMORSI — I think what is important to note when we look at the pricing is the ingoing contribution and up-front payment and the DMF, and you do not look at those in isolation.

The CHAIR — Of course.

Mr PUTAMORSI — For us, even on turnover, it is a combination of those two in terms of value attribution as well.

The CHAIR — I understand that. Mr Putamorsi and Mr McMillan, thank you very much for your evidence today and, again, thank you for allowing us to have our hearing in Mornington.

Mr McMILLAN — Good luck. Thank you.

Witnesses withdrew.